

REMARKS

The Claims in the case are 1-16 and 26, relating to compounds and pharmaceutical compositions. The "use" claims (actually directed to methods of treatment) Claims 17-25 have been cancelled. In the previous paper, the Examiner had made a restriction between compounds 1-17, 19-22 and 26, and combined compositions, Claim 27. He withdrew the "use" claims 18 and 23-25. However, Claims 17 and 19-22 also relate to the use of the compounds as medicines, see the last line of Claim 17; the other claims, including Claims 18 and 23-25 depended on Claim 17. Accordingly, all "use" claims have been cancelled in this response. Applicants reserve the right to file divisional applications on the deleted subject matter.

The species elected was the 10th compound in Claim 16, 1-(4-Nitro-phenyl)-2-oxo-5-(2-pyrrolidin-1-yl-ethyl)-2,5-dihydro-1H-pyrido[3,2-b]indole-3-carbonitrile. This compound is also described as compound 13 in the table at p. 63 and Example A7 at p. 42.

The Examiner has now examined the claims, and rejected them (Section 102b) on the basis of the Lantsetti reference. Neither this reference, nor the Ryabova reference earlier cited, are novelty-defeating or appropriate support for an obviousness rejection. The compounds of the reference have a pyridinium group on the 3-position, and Applicants do not claim any pyridinium or pyridinyl groups at the 3-position. The "Het₂" substituents at the R₁ position related to 6-membered rings, and those groups have been cancelled. The reference does not defeat the novelty or make obvious the compounds claimed by Applicants, all of which have the defined substituents at R₁ that include only 5-membered rings. Reconsideration and withdrawal of the rejection is respectfully requested.

There is a proviso in Claim 1; the excluded compounds have also been deleted from Claim 16, the first two compounds in that claim.

The double patenting rejections are all provisional rejections, as the cited applications have not been examined. The instant application can be allowed over the teaching in those copending applications.

The rejection of Claim 17 and its dependant claims is mooted by cancellation of those claims.

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The rejections of Claim 1 and its dependant claimas being indefinite (section 112, 2nd paragraph) and non-enabled (section 112, 1st paragraph) are overcome by the current amendment, in which the pharmaceutically acceptable salt forms of the compounds are claimed in Claims 1 and 16.

CONCLUSION

Reconsideration and withdrawal of all the rejections is respectfully requested.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayments necessitated by this Amendment to Deposit Account No. 10-0750/TIP0042USPCT/AGK/HJP.

Respectfully submitted,

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